

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

## ORDER

This matter comes before the Court for review of two Reports issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends granting the dispositive motions filed by all Defendants, dismissing Plaintiff's action against Defendant Turn Key Health and entering summary judgment in favor of all other Defendants.

Plaintiff Charles R. Stewart, a state prisoner who appears *pro se*, has made no timely objection nor requested an extension of time, even though he was expressly informed of his right to object, the procedure for doing so, and the firm waiver rule. This silence is consistent with his failure to respond to any of Defendants' motions. Upon consideration, the Court finds that Plaintiff has waived further review of the issues addressed in the Reports. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons ably explained by Judge Mitchell, the Court finds that Plaintiff's action against Defendant Turn Key Health should be dismissed without prejudice for failure to state a claim for

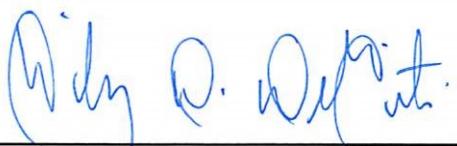
which relief can be granted under § 1983 and that summary judgment should be granted in favor of all other Defendants for failure to exhaust administrative remedies in compliance with 42 U.S.C. § 1997a(e).

**IT IS THEREFORE ORDERED** that the first Report and Recommendation [Doc. No. 47] is **ADOPTED** in its entirety. Defendant Turn Key Health Clinics, LLC's Motion to Dismiss [Doc. No. 41] is **GRANTED**. Plaintiff's action against Defendant Turn Key Health is dismissed without prejudice to refiling.

**IT IS FURTHER ORDERED** that the second Report and Recommendation [Doc. No. 48] is also **ADOPTED** in its entirety. Defendants Damon Devereaux, Leandra James and Matthew Sumner's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment [Doc. No. 39] is **GRANTED** in that summary judgment is awarded to these Defendants. A separate judgment shall be entered accordingly.

**IT IS FURTHER ORDERED** that Defendants' Joint Motion for Deem Motions to Dismiss Confessed [Doc. No. 43] is **DENIED** as moot.

**IT IS SO ORDERED** this 8<sup>th</sup> day of December, 2021.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge